

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JEFFERY DICKSON	§	
	§	C.A. No. 4:16-cv-2467
V.	§	
	§	
STATE FARM LLOYDS	§	JURY DEMANDED

DEFENDANT STATE FARM LLOYD’S PETITION FOR REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant State Farm Lloyds (“State Farm”) files this Petition for Removal to remove from the 215th Judicial District Court of Harris County, Texas to this Court that suit styled, *Jeffery Dickson v. State Farm Lloyds*, docketed under Cause No. 2016-35286.

I.

STATEMENT OF JURISDICTIONAL BASIS FOR REMOVAL

The Court has original diversity jurisdiction under 28 U.S.C.A. Section 1332(a)(1). Thus, this Court has removal jurisdiction. 28 U.S.C.A. Section 1441(a).

II.

TIMELINESS OF PETITION FOR REMOVAL

This Petition for Removal is being filed within thirty (30) days after the receipt by Defendant through service of a copy of the original state court petition. 28 U.S.C.A. 1446(b). Plaintiff’s original state court petition was filed on May 27, 2016, and served on July 12, 2016. This petition is filed less than thirty (30) days after State Farm’s first service of the suit, and is therefore timely.

III.

NATURE OF PLAINTIFF'S CASE AGAINST PETITIONER

This suit involves an insurance coverage dispute arising out of a foundation damage claim reported by Plaintiff Jeffery Dickson under his homeowners' insurance policy with State Farm Lloyds. Dickson's State Farm homeowners' policy included coverage for foundation up to \$40,395.00. *See Exhibit A, Declaration Page and Foundation Endorsement of Dickson Policy, attached hereto and incorporated herein.* After State Farm denied the claim, Plaintiff sued State Farm for breach of contract, but also alleged Breach of the Duty of Good Faith and Fair Dealing, including a claim for punitive damages, violations of the Texas Deceptive Trade Practices Act and Texas Insurance Code, including claims for statutory damages and additional damages, negligent and knowing misrepresentations, a claim of "unjust enrichment," and claims for attorney fees. Plaintiffs' Original Petition (Attachment 1). Plaintiff has sued for economic and non-economic damages, statutory damages and penalties, and attorney fees all arising out of the insurance claim.

IV.

DIVERSITY JURISDICTION PERMITS REMOVAL

This Court has diversity jurisdiction under 28 U.S.C.A. Section 1332(a)(1).

State Farm Lloyds is an unincorporated association whose underwriters are citizens of the State of Illinois. Therefore, State Farm Lloyds is not a citizen of Texas for purposes of federal diversity jurisdiction. *See Royal Ins. C. of America v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-883 (5th Cir. 1993), *cert. den.*, 511 U.S. 1032, 114 S.Ct. 1541, 128 L.Ed2d 193 (1994).

Plaintiff is a citizen of Texas.

Plaintiffs' Original Petition (Attachment 1) makes claims for a) benefits under the insurance contract; b) actual damages for State Farm's alleged unjust enrichment; c) actual damages and exemplary damages for negligent and intentional misrepresentation; d) statutory damages and penalties under the Texas Insurance Code and Texas Deceptive Trade Practices Act and e) attorneys' fees.

While the Plaintiffs' Original Petition says "the amount in controversy and damages sought by Plaintiff exceed the minimum jurisdictional limits of this Court and are less than \$75,000.00," based on the amount of the insurance coverage involved and the economic, non-economic, punitive and statutory damages and penalties Plaintiff is seeking, State Farm in good faith has reason to believe the amount in controversy is in excess of \$120,000.00. Further, Defendant attempted to confirm with Plaintiff's counsel that the amount in controversy exclusive of interest and costs was no more than \$75,000.00 and Plaintiff declined to agree. *See Exhibit B, State Farm's Proposed Stipulation regarding Amount in Controversy and Plaintiff's Response, attached hereto and incorporated herein.* Accordingly, the amount in controversy, exclusive of interest and costs, is well in excess of the jurisdictional minimum of \$75,000.00.

V.

STATE COURT PLEADINGS FILED WITH PETITION

Pursuant to 28 U.S.C.A. Section 1446(a) and Local Rule 81 United States District Court for the Southern District of Texas, filed with this Petition for Removal are an Index of Attachments; a List of Counsel of Record; all executed process in the case; all pleadings asserting causes of action and all answers to such pleadings; all orders signed by the state judge; and the docket sheet, as follows:

- (1) Plaintiffs' Original Petition;
- (2) Citation issued to Defendant State Farm with officer's return thereon;
- (3) Defendant State Farm Lloyds' Original Answer;
- (4) the State Court's Docket Sheet; and
- (5) Notice of Removal filed with Harris County Clerk.

WHEREFORE, PREMISES CONSIDERED, Defendant State Farm Lloyds prays that this Petition for Removal be granted, that Plaintiff's suit against Defendant proceed before this Court pursuant to this Court's diversity jurisdiction, that upon final trial, judgment be rendered that Plaintiff take nothing by his suit against Defendant, and for such other and further relief to which Defendant may be justly entitled.

Respectfully submitted,

TAYLOR, TAYLOR & RUSSELL

/s/ Beth M. Taylor
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ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the preceding Defendant State Farm Lloyds' Petition for Removal has been filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system and by certified mail, return receipt requested, to the following CM/ECF participants on this 11th day of August, 2016:

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/s/ Beth M. Taylor
Beth M. Taylor